

**Title 15. Division 2. BOARD OF PAROLE HEARINGS  
(formerly known as Board of Prison Terms)**

**STATEMENT OF EMERGENCY**

**SUBJECT: Amendments to Section 2616**

NOTICE IS HEREBY GIVEN that the Board of Parole Hearings (Board) proposes to amend, on an emergency basis, Title 15, Division 2, California Code of Regulations (CCR) § 2616 updating the reportable information for which the Board is authorized to revoke parole to include violations of residency restrictions for sex offenders.

**AUTHORITY**

These regulations are submitted pursuant to the Board's authority under Government Code §12838.4 and Penal Code §§ 3052 and 5076.2.

**REFERENCE**

These regulations are amended to implement, interpret, and/or make specific Proposition 83, an initiative that enacted "The Sexual Predator Punishment and Control Act: Jessica's Law on November 8, 2006.

**FINDING OF EMERGENCY**

The Board finds that its May 15, 2007 emergency order amending 15 CCR § 2616 is necessary for the immediate preservation of the public peace, health and safety, or general welfare. The Board must amend its current regulations to implement Proposition 83 in order to carry out the intent of the law, which is the protection of public safety.

These amendments are immediately necessary as they update the reportable information for which the Board is authorized to revoke parole to include violations of residency restrictions for sex offenders. The Board must immediately implement the regulatory amendments to meet the public safety objectives of revoking parole for sex offenders who violate residency restrictions.

The Board has determined that no reasonable alternatives identified or considered would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed regulatory action.

As these regulatory amendments are necessary in order for the Board to comply with laws explained below, the Board intends that these amendments take effect as soon as possible, on an emergency basis, until made permanent under appropriate procedures.

## **BACKGROUND**

Proposition 83, an initiative statute, enacted “The Sexual Predator Punishment and Control Act: Jessica’s Law.” Proposition 83 was approved by a majority of the voters on November 7, 2006 and became effective the day after the election, which was November 8, 2006.

Section 2 (f) of the Act provides that the “People find and declare it is the intent of the People in enacting the measure to help Californians better protect themselves, their children, and their communities; it is not the intent of the People to embarrass or harass persons convicted of sex offenses.”

Section 2 (h) provides that “Californians must take additional steps to monitor sex offenders, to protect the public from them, and to provide adequate penalties for and safeguards against sex offenders, particularly those who prey on children.”

Proposition 83 took effect immediately. Of primary importance in the law is the immediate necessity to protect the health and safety of the People of California. The regulations necessary to implement the law must also take effect immediately in order to preserve the public peace, health and safety or general welfare and avoid frustration of the Acts intents. Specifically, Title 15, California Code of Regulations section 2616, which sets forth procedures for the Board to revoke parole, must be immediately amended to conform with Proposition 83.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Government Code § 12838.4 vests the Board of Parole Hearings with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the former Board of Prison Terms and Narcotic Addict Evaluation Authority, which no longer exist.

Penal Code § 3052 vests with the Board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole outside of prison when eligible for parole.

Penal Code § 5076.2 authorizes the Board to promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

The intent of the emergency amendment to § 2616 is to amend Board regulations to implement Proposition 83, and carry out the intent of the law, the protection of public safety.

## **LOCAL MANDATES**

The Board has determined that the proposed action imposes no mandate upon local agencies or school districts.

## **FISCAL IMPACT STATEMENT**

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: *None*
- Cost or savings to any state agency:

### **Board of Parole Hearings:**

Not to exceed the Fiscal Year 2007-2008 Sex Offender Budget Change Proposal.

### **Other divisions in the Department of Corrections and Rehabilitation:**

**Classification Service Unit (CSU):** Not to exceed the Fiscal Year 2007-2008 Sex Offender Budget Change Proposal.

**Division of Adult Parole Operations (DAPO):** Not to exceed the Fiscal Year 2007-2008 Sex Offender Budget Change Proposal.

### **Other state agencies:**

**Department of Mental Health (DMH):** According to DMH, the Governor's May Revised Budget for the 2007-2008 year includes \$25 million to pay for the increased DMH workload due to the combined effects of Senate Bill 1128 and Proposition 83, "Jessica's Law."

- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*